

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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THOMAS CLEMENT,

Plaintiff,

v.

Case No. 07-C-0902

MICHAEL J. ASTRUE,  
Commissioner of the  
Social Security Administration

Defendant.

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**ORDER**

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On October 9, 2007, plaintiff Thomas Clement commenced this action seeking judicial review of the Commissioner of the Social Security Administration's (Commissioner) final decision denying his application for social security benefits under the Social Security Act, 42 U.S.C. § 405(g). The parties have consented to United States magistrate judge jurisdiction.

The plaintiff was granted leave to proceed in forma pauperis on October 9, 2007. Subsequently, a briefing schedule was issued by the Clerk of Court which required the plaintiff to file and serve a brief, including a short statement of the case, a statement of errors and a statement of the relief the plaintiff seeks no later than January 31, 2008. When the plaintiff did not file his brief by that date, the defendant filed a motion to dismiss for failure to prosecute. The court then granted the plaintiff additional time to April 4, 2008, to file his brief.

On March 11, 2008, the plaintiff file a letter requesting additional time to file his brief. He asserted that he never received the iniitial briefing letter and local court rules packet which was sent to him on about October 30, 2007. In light of the plaintiff's representation, a second

briefing letter was mailed to the plaintiff on March 14, 2008. Pursuant to the new briefing schedule, the plaintiff's brief is now due on June 16, 2008, the defendant's response is due July 16, 2008, and the plaintiff's reply brief is due July 31, 2008.

Based on the foregoing, the defendant's motion to dismiss for failure to prosecute will be denied without prejudice.

**ORDER**

**NOW, THEREFORE, IT IS HEREBY ORDERED** that the defendant's motion to dismiss be and hereby is **denied** without prejudice. (Docket # 11).

Dated at Milwaukee, Wisconsin this 21st day of March, 2008.

BY THE COURT

s/ Patricia J. Gorence  
PATRICIA J. GORENCE  
United States Magistrate Judge